

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

In re:	(	Case No. 14-17385
	(	
Scott & Karen Westfall,	(	Chapter 13
	(	
Debtors.	(	Judge: Harris

**DEBTORS' MOTION TO MODIFY CHAPTER 13 PLAN**

Now come Debtors, by and through counsel, and move to modify the Chapter 13 Plan pursuant to 11 U.S.C. §1329, and in support states as follows:

1. The Debtors' Amended Chapter 13 Plan was filed on December 19, 2014, and confirmed on March 5, 2015.
2. Debtor-husband became unemployed in April 2017 following a heart attack and has been receiving unemployment compensation while seeking disability.
3. Debtors seek a retroactive moratorium of payments in the amount of \$9,749.91.
4. Debtors seek to modify the Chapter 13 Plan to reduce their plan payments to \$2,835.00 per month beginning September 1, 2017. An amended Schedule I and J will be filed simultaneously.
5. In addition, Debtors seek to modify the Chapter 13 Plan to reduce the dividend being paid to unsecured creditors from 100% to 54% or \$10,297.08, whichever is greater; however, trustee shall not be required to recover any funds already disbursed at the time of the filing of this motion. An amended plan is being attached hereto.
6. The proposed modification is being made in good faith, and the plan will complete within 60 months pursuant to 11 U.S.C. § 1329(c).

**WHEREFORE**, Debtors respectfully request this Court enter an order of modification as outlined above, and for such other relief as this Court deems just.

Respectfully submitted,

/s/Debra E. Booher

Debra E. Booher, (0067804)

Attorneys for Debtors

charlotte@bankruptcyinfo.com

1350 Portage Trail

Cuyahoga Falls, OH 44223

Tel 330.253.1555 / Fax 330.253.1599

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion was mailed by regular U.S. Mail (unless otherwise noted) this 4<sup>th</sup> day of October, 2017 to the following parties:

The U.S. Trustee at registered email @usdoj.gov

Lauren Helbling, Trustee at ch13trustee@ch13cleve.com, lhelbling13@ecf.epiqsystems.com

All creditors per the attached

/s/ Debra E. Booher

Debra E. Booher (0067804)

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION (CLEVELAND)**

**In Re:** ) **Chapter 13 Case No.: 14-17385-aih**  
 )  
 **Scott & Karen Westfall** ) **Judge Harris**  
 )  
 Debtor(s). ) **Original Chapter 13 Plan**  
 ) **X Modified Chapter 13 Plan, dated 10/4/2017**

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**NOTICE OF SPECIAL PROVISIONS (Check One)**

This plan DOES NOT include any provision deviating from the uniform plan in effect at the time of the filing of this case.

**X** This plan DOES contain special provisions that must be and are set forth in paragraph 11 below.

**NOTICE OF DISCHARGE ELIGIBILITY**

The Debtor is eligible for discharge unless otherwise indicated below:

Debtor is NOT eligible for discharge under 11 U.S.C §1328(f).

Joint Debtor is NOT eligible for discharge under 11 U.S.C §1328(f).

**ATTENTION CREDITORS AND PARTIES IN INTEREST**

This plan sets forth how the Debtor or Debtors ("Debtor") propose to pay claims. You should read this plan carefully and discuss it with your attorney. Anyone who wishes to oppose any provision of this plan must file a timely written objection with the court. This plan may be confirmed and become binding without further notice or hearing unless a timely written objection is filed. Creditors must file a proof of claim with the court in order to receive distributions under this plan.

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**1. PAYMENTS**

**A.** The Debtor shall make monthly payments to the Chapter 13 Trustee ("Trustee") in the amount of \$ 2,835 per month ("Plan Payment") for at least the duration of the applicable commitment period, unless all allowed claims are paid in full in a shorter period of time.

**B. (Check One)**

**X** The applicable commitment period is 36 months.

The applicable commitment period is 60 months.

**C.** Unless the court orders otherwise, the plan will not be considered complete until either (i) all allowed claims are paid in full, or (ii) the plan has run for at least the applicable commitment period and at least the amount specified in paragraph 7 has been paid to unsecured creditors.

**D.** Trustee may increase the Plan Payment during the term of the plan as necessary to reflect increases, if any, in any conduit payments paid by the Trustee.

## 2. DISTRIBUTIONS

**A.** After confirmation of this plan, funds available for distribution will be paid monthly by the Trustee in the following order: (i) Trustee's authorized percentage fee and/or administrative expenses; (ii) attorney fees as allowed under applicable rules and guidelines; (iii) conduit payments as provided for in paragraph 3(C); (iv) monthly payments as provided for in paragraph 5(C); (v) monthly payments as provided for in paragraphs 3(A), 3(B), 4(A), 4(B) and 9; (vi) monthly payments as provided for in paragraph 6; and (vii) general unsecured claims.

**B.** If the Trustee has received insufficient funds from the Debtor to make the conduit payment, the Trustee may accumulate funds until sufficient funds are available for distribution of a full monthly payment. The Trustee may distribute amounts different from the monthly payments specified in the plan if the Trustee determines such deviation is appropriate or reasonably necessary for the administration of the plan.

**C.** Unless a claim objection is sustained, a motion to value collateral or to avoid a lien is granted, or the court orders otherwise, distributions on account of claims in paragraphs 3(A), 3(C), 4(A), 5, 6, 7 and 9 will be based upon the classification and amount stated in each claim holder's proof of claim rather than any classification or amount stated in this plan. Conversely, distributions on account of claims in paragraphs 3(B), 4(B) and 4(C) will be based upon the classification and amount stated in the plan rather than the classification and amount stated in the claim holder's proof of claim. Unless otherwise set or mandated by statute, interest on all secured personal property claims provided for in this plan shall be paid pursuant to paragraph 4(D).

## 3. CLAIMS SECURED BY REAL PROPERTY

### **A. Mortgage Arrearages and Real Estate Tax Arrearages (Paid per the Proof of Claim)**

Trustee shall pay the monthly payment amount to allowed claims for mortgage arrearages and real estate tax arrearages. Note: If the Trustee will not be making the continuing mortgage payments, the Debtor is responsible for paying all post-petition mortgage payments that ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Address</u>	<u>Estimated Arrearage Claim</u>	<u>Monthly Payment on Arrearage Claim (Paid by Trustee)</u>
<b>Chase/Seterus</b>	<b>3060 Stoney Creek Drive North Royalton, OH 44133</b>	<b>\$34,317</b>	<b>\$650</b>

### **B. Other Real Estate Claims (Paid per the Plan)**

Trustee shall pay the monthly payment amount to creditors up to the amount and interest rate as specified below. The portion of any allowed claim that exceeds the amount to be paid through the plan shall be treated as an unsecured claim. Unless the court orders otherwise, upon confirmation, the amount, interest rate and monthly payment specified below will be binding under 11 U.S.C §1327.

<u>Creditor</u>	<u>Property Address</u>	<u>Amount to be Paid Through the Plan</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
<b>Third Federal Savings</b>	<b>3060 Stoney Creek Drive North Royalton, OH 44133</b>	<b>\$14,638</b>		<b>\$250</b>

### **C. Conduit Payments**

Trustee shall pay the regular monthly mortgage payments beginning with the first payment due after the filing of the case (or the first payment due after the filing of a modified plan if the modified plan proposes to change the treatment of a mortgage from “non-conduit” to “conduit”). Unless real estate taxes and insurance are included in the mortgage payments to be paid by the Trustee pursuant to the Plan, the Debtor shall remain responsible for paying those obligations as they become due. Note: If the Trustee is making the continuing monthly mortgage payments, the mortgage creditor must also be listed in paragraph 3(A) above.

<u>Creditor</u>	<u>Property Address</u>	<u>Monthly Payment (Paid by Trustee)</u>
Chase/Seterus	3060 Stoney Creek Drive North Royalton, OH 44133	\$1,536

### **4. CLAIMS SECURED BY PERSONAL PROPERTY**

#### **A. Secured Claims (Paid per the Proof of Claim)**

Claims specified below are debts secured by a purchase money security interest in a vehicle acquired for the personal use of the Debtor for which the debt was incurred within 910 days of filing the bankruptcy petition, or, if the collateral for the debt is any other thing of value, the debt was incurred within one year of filing. Trustee shall pay the following claims, with interest per paragraph 4(D), in equal monthly payments as specified below.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Monthly Payment (Paid by Trustee)</u>
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#### **B. Other Secured Claims (Paid per the Plan)**

Claims specified below are debts secured by personal property not provided for in paragraph 4(A) above. Trustee shall pay the allowed claims up to the secured amount, with interest per paragraph 4(D), in equal monthly payments as specified below. The portion of any allowed claim that exceeds the secured amount will be treated as an unsecured claim. Unless the court orders otherwise, upon confirmation, the secured amount and monthly payment specified below will be binding under 11 U.S.C. §1327.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Secured Amount</u>	<u>Monthly Payment (Paid by Trustee)</u>
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#### **C. Pre-confirmation Adequate Protection Payments (Paid per the Plan)**

Trustee shall pay the monthly payment amount to creditors for pre-confirmation adequate protection as specified below.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Monthly Payment (Paid by Trustee)</u>
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#### **D. Interest**

The interest rate to be paid on all secured personal property claims provided for in this plan shall be the prime rate plus a risk factor of 2.0%. The applicable prime rate shall be fixed for the life of this plan at the U.S. prime rate shown in the Wall Street Journal for Money Rates as of the date of the entry of the confirmation order. Only through separate order may a party-in-interest obtain court approval to apply a different interest rate. This provision shall not alter interest rates set or mandated by statute.

**5. DOMESTIC SUPPORT OBLIGATIONS (Paid per the Proof of Claim)**

A. Debtor does ☒ does not have domestic support obligations under 11 U.S.C. §101(14A).

B. Specify the holder(s) of any claims for domestic support obligations under 11 U.S.C. §1302(d) unless the holder is a minor. If the holder of a claim is a minor, the name and address of the minor holder shall be disclosed to the Trustee in a private document contemporaneously with the filing of this plan in compliance with 11 U.S.C. §112.

<u>Holder Name</u>	<u>Address</u>
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C. Trustee shall pay the monthly payment amount to creditors for domestic support obligation arrearages as specified below. Debtor shall pay the holder(s) of non-arrearage claims for domestic support obligations as those payments ordinarily come due unless otherwise specified in paragraph 11 – Special Provisions.

<u>Creditor</u>	<u>Creditor Address</u>	<u>Monthly Payment on Arrearage Claim (Paid by Trustee)</u>
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**6. OTHER PRIORITY CLAIMS (Paid per the Proof of Claim)**

Trustee shall pay the monthly payment amount to creditors for allowed unsecured priority claims as specified below.

<u>Creditor</u>	<u>Monthly Payment (Paid by Trustee)</u>
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<b>RITA</b>	<b>\$50</b>
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<b>Ohio Dept. of Taxation</b>	<b>\$40</b>
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**7. GENERAL UNSECURED CLAIMS**

Debtor estimates the total of the non-priority unsecured debt to be \$18,862.38. Trustee will pay to creditors with allowed non-priority unsecured claims a pro-rata share of \$10,297.08 or 54%, whichever is greater. Trustee is authorized to increase the amount paid to unsecured creditors in order to comply with paragraph 1 of this plan.

**8. PROPERTY TO BE SURRENDERED**

A. Debtor surrenders the property described below and the creditor may file a claim for the deficiency, which will be treated as a non-priority unsecured claim. Any unsecured deficiency claim must be filed by the bar date for claims or allowed by separate order of the court.

<u>Creditor</u>	<u>Property Description</u>
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**9. EXECUTORY CONTRACTS AND UNEXPIRED LEASES (Pay per the Proof of Claim)**

All executory contracts and unexpired leases are rejected except the following, which are assumed. Trustee shall pay the monthly payment amount to allowed claims for executory contract arrearages and unexpired lease arrearages as specified below. Debtor shall pay all post-petition payments that ordinarily come due.

<u>Creditor</u>	<u>Property Description</u>	<u>Estimated Arrearage Claim</u>	<u>Monthly Payment on Arrearage Claim (Paid by Trustee)</u>
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#### 10. OTHER PLAN PROVISIONS

A. Property of the estate shall revert in the Debtor ☒ upon confirmation. ☐ upon discharge, dismissal or completion. If the Debtor has not made a designation, property of the estate shall revert in the Debtor upon confirmation. Unless otherwise ordered, the Debtor shall remain in possession of all property of the estate during the pendency of this case. All property in which the Debtor retains possession shall be insured by the Debtor. Trustee shall have no responsibility to insure assets and shall have no liability for damage or loss relating to property which is in the possession and control of the Debtor.

B. Notwithstanding the automatic stay, creditors and lessors provided for in paragraphs 3(A), 3(C), and 9 of this plan may continue to mail customary notices or coupons to the Debtor.

C. Trustee shall pay any post-petition claim filed and allowed under §1305(a)(1).

D. The following co-debtor claims will be paid by the co-debtor outside the plan:

<u>Creditor</u>	<u>Property Description</u>
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#### 11. SPECIAL PROVISIONS

This plan shall include the provisions set forth in the boxed area below. **Note: The provisions set forth below will not be effective unless there is a check in the second notice box preceding paragraph 1 of this plan.** Further, these provisions should not contain a restatement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedures, Local Bankruptcy Rules or case law.

Debtors shall turnover any proceeds from their potential malpractice claim that they receive during the Chapter 13 plan.
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/s/ Scott Westfall  
Scott Westfall, Debtor

/s/ Karen Westfall  
Karen Westfall, Debtor

Date: 10/4/2017

/s/ Debra E. Booher  
ATTORNEY FOR DEBTOR



Label Matrix for local noticing  
0647-1  
Case 14-17385-aih  
Northern District of Ohio  
Cleveland  
Wed Oct 4 08:25:06 EDT 2017

Federal National Mortgage Association ("  
c/o Rosicki, Rosicki & Associates, P.C.  
51 East Bethpage Road  
Plainview, NY 11803-4224

Howard M. Metzenbaum U.S. Courthouse  
United States Bankruptcy Court  
Howard M. Metzenbaum U.S. Courthouse  
201 Superior Avenue  
Cleveland, OH 44114-1235

AT&T U-verse  
PO Box 5014  
Carol Stream, IL 60197-5014

Atty. General of US  
c/o Department of Justice  
Tax Div. Civil Trail, Northern  
P.O. Box 55, Ben Franklin Station  
Washington, DC 20044-0055

CERASTES, LLC  
C O WEINSTEIN,PINSON AND RILEY, PS  
2001 WESTERN AVENUE, STE 400  
SEATTLE, WA 98121-3132

City of North Royalton  
13834 Ridge Road  
North Royalton, OH 44133-4853

Cleveland Clinic  
c/o Revenue Group  
PO Box 93983  
Cleveland, OH 44101-5983

Cleveland Clinic Physician  
c/o Revenue Group  
PO Box 93983  
Cleveland, OH 44101-5983

Drs. Hill & Thomas  
c/o Fidelity National Collections  
PO Box 2055  
Alliance, OH 44601-0055

BSI Financial Services  
1425 Greenway Drive, Ste 400  
Irving, TX 75038-2480

Ohio Department of Taxation  
c/o William C. Huffman  
24441 Detroit Road, Ste. 200  
Westlake, OH 44145-1543

1-Chase/Seterus Bankruptcy Dept.  
PO Box 2206  
Grand Rapids, MI 49501-2206

AT&T U-verse  
c/o Credit Collection Services  
Two Wells Avenue  
Newton Center, MA 02459-3225

Barclay's  
PO Box 8801  
Wilmington, DE 19899-8801

Cavalry SPV I, LLC  
500 Summit Lake Drive, Ste 400  
Valhalla, NY 10595-1340

City of North Royalton  
14600 State Road  
North Royalton, OH 44133-4896

Cleveland Clinic Physician  
PO Box 89410  
Cleveland, OH 44101-6410

Credit First NA  
PO Box 818011  
Cleveland OH 44181-8011

Fed Ex  
PO Box 371461  
Pittsburgh, PA 15250-7460

Federal National Mortgage Association  
c/o Rosicki, Rosicki & Associates  
51 E. Bethpage Road  
Plainview, NY 11803-4224

US Bank Trust N.A, as Trustee of Bungalow Se  
The Law Office of Michelle Ghidotti  
5120 E La Palma  
Suite 206  
Anaheim Hills, CA 92807-2091

2-Third Federal Savings  
7007 Broadway Ave.  
Cleveland, OH 44105-1490

Atlas Acquisitions LLC  
on behalf of Oliphant Financial, LLC  
294 Union St.  
Hackensack, NJ 07601-4303

Barclay's  
c/o Capital Management Services  
698 1/2 South Ogden Street  
Buffalo, NY 14206-2317

Chase/Seterus  
c/o Atty. Rachel Pearson  
PO Box 5480  
Cincinnati, OH 45201-5480

Cleveland Clinic  
PO Box 89410  
Cleveland, OH 44101-6410

Cleveland Clinic Physician  
c/o MBA Law  
2222 Texoma Parkway,Suite 160  
Sherman, TX 75090-2482

(p)DRS HILL AND THOMAS COMPANY  
5700 SOUTHWYCK BLVD  
TOLEDO OH 43614-1509

Fed Ex  
c/o NCO Financial Systems, Inc.  
PO Box 967  
Horsham, PA 19044-0967

Federal National Mortgage Association  
(Fannie Mae) c/o Seterus, Inc.  
PO Box 1047  
Hartford, CT 06143-1047

Firestone  
PO Box 818011  
Cleveland, OH 44181-8011

Firestone  
c/o Client Services  
3451 Harry S. Truman Blvd.  
Saint Charles, MO 63301-4047

HSBC/Capital One  
Bankruptcy Department  
PO Box 30285  
Salt Lake City, UT 84130-0285

HSBC/Capital One  
c/o ARS National Services  
PO Box 469048  
Escondido, CA 92046-9048

HSBC/Capital One  
c/o Alliance One  
PO Box 3111  
Southeastern, PA 19398-3111

HSBC/Capital One  
c/o Cavalry Portfolio Services  
PO Box 27288  
Tempe, AZ 85285-7288

IRS Special Procedures  
PO Box 7346  
Philadelphia, PA 19101-7346

JH Portfolio Debt Equities  
PO Box 339  
Woodland Hills, CA 91365-0339

JH Portfolio Debt Equities  
c/o Atty. Martin Bunce  
25651 Detroit Road, Ste. 203  
Westlake, OH 44145-2415

Office of US Attorney  
Carl B. Stokes US Courthouse  
801 W. Superior Ave. #400  
Cleveland, OH 44113-1852

Ohio Department of Taxation  
Bankruptcy Division  
P.O. Box 530  
Columbus, OH 43216-0530

Ohio Dept. of Taxation  
c/o Attorney General  
Attn: Bankruptcy Staff  
150 E. Gay Street, 21st Floor  
Columbus, OH 43215-3191

Parma Community General Hospital  
MB ROI  
PO Box 549  
Lutherville Timonium, MD 21094-0549

Parma Community General Hospital  
PO Box 931242  
Cleveland, OH 44193-1471

(p)PORTFOLIO RECOVERY ASSOCIATES LLC  
PO BOX 41067  
NORFOLK VA 23541-1067

Quantum3 Group LLC as agent for  
CF Medical LLC  
PO Box 788  
Kirkland, WA 98083-0788

Quantum3 Group LLC as agent for  
CP Medical LLC  
PO Box 788  
Kirkland, WA 98083-0788

RITA  
PO Box 470537  
Broadview Hts, Ohio 44147-0537  
Attn Legal Dept

(p)REGIONAL INCOME TAX AGENCY  
PO BOX 470537  
ATTENTION LEGAL DEPARTMENT  
BROADVIEW HEIGHTS OH 44147-0537

Seterus, Inc.  
P.O. Box 4121  
Beaverton, OR 97076-4121

The Ohio Bell Telephone Company  
c/o AT&T Services Inc.  
Karen A. Cavagnaro - Lead Paralegal  
One AT&T Way, Room 3A104  
Bedminster, NJ 07921-2693

Third Federal Savings  
c/o Atty. James Sassano  
24755 Chagrin Blvd., Ste. 200  
Beachwood, OH 44122-5690

Third Federal Savings and Loan  
Association of Cleveland  
7007 Broadway Avenue  
Cleveland, OH 44105-1441

Third Federal Savings and Loan Association o  
7007 Broadway Avenue  
Cleveland, OH 44105-1441

US Bank Trust N.A, as Trustee  
c/o BSI Financial Services  
1525 Greenway Dr., Ste. 400  
Irving, TX 75038

Debra E Booher  
1350 Portage Trail  
Cuyahoga Falls, OH 44223-2105

Debra E. Booher  
Debra Booher & Assoc., Co., LPA  
1350 Portage Trail  
Cuyahoga Falls, OH 44223-2105

Karen M. Westfall  
3060 Stoney Creek Drive  
North Royalton, OH 44133-4165

Lauren A Helbling  
200 Public Square  
#3860  
Cleveland, OH 44114-2322

Scott A. Westfall  
3060 Stoney Creek Drive  
North Royalton, OH 44133-4165

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Drs. Hill & Thomas PO Box 643026 Cincinnati, OH 45264-3026	Portfolio Recovery Associates LLC PO Box 12914 Norfolk, VA 23541-1223	(d)Portfolio Recovery Associates LLC c/o Atty. James Colabianchi PO Box 12903 Norfolk, VA 23541
(d)Portfolio Recovery Associates, LLC POB 12914 Norfolk VA 23541	RITA PO Box 94569 Cleveland, OH 44101-4569	

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Seterus, Inc	(u)THIRD FEDERAL SAVINGS & LOAN ASSOCIATION O	(d)Ohio Dept. of Taxation Bankruptcy Division PO Box 530 Columbus, OH 43216-0530
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End of Label Matrix	
Mailable recipients	60
Bypassed recipients	3
Total	63